IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 4561 of 2007
DATE OF DECISION: 20.7.2007

Merino Panel Products Ltd.

…Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. Sandeep Goyal, Advocate,
for the petitioner.

Ms. Ritu Bahri, Advocate,
for the respondents.

JUDGMENT

M.M. KUMAR, J.

On 31.3.2006, the Haryana Tax Tribunal allowed the appeal of the petitioner in S.T.A. No. 552 of 2005-2006. The aforementioned order has attained finality. According to para Nos. 21 and 22, the petitioner has been given the requisite relief and the same reads as under:-

> "21. For the foregoing reasons it is held that the appellant company is entitled to the concession of

deferment of payment of tax with effect from the date of issue of eligibility certificate and not from the date of commercial production as has been ordered by the HLSC on the basis of which eligibility certificate dated 2.1.2006 has been issued in favour of the appellant to that effect i.e. granting concession of deferment of tax payment with effect from 28.1.1999. Thus, the order of eligibility certificate granting deferment of tax to the appellant w.e.f. 28.1.1999 the date of commercial production of the appellant needs to be set aside.

22. Consequently the appeal is allowed to the extent specified in para 21 above and the HLSC is directed to issue revised eligibility certificate w.e.f. the date of issue of deferment certificate accordingly."

When the matter came up for consideration on 17.7.2007, we had asked the learned State counsel to seek instructions as to how long would it take to comply with the directions issued by the Tribunal in its order dated 31.3.2006 (P-4).

At the hearing today, Ms. Ritu Bahri, learned DAG, Haryana, after obtaining instructions has stated that the Tribunal has not issued direction in accordance with sub-rule 5(a) of Rule 28-B, which provides for concession of deferment of payment of tax with effect from the date of issue of entitlement certificate and not from the date of eligibility certificate as has been directed by the Tribunal. According to her, the direction issued by the Tribunal would not

result into any prejudice to the interests of the petitioner, inasmuch as, only period of two months would be washed because from the date of issuance of eligibility certificate, entitlement certificate is required to be issued within 30 days from the date of filing the application. She has further stated that difference between the eligibility certificate and entitlement certificate would not be in any case more than two months.

Mr. Sandeep Goyal, learned counsel for the petitioner has submitted that he has no objection if the concession of deferment of payment of tax is given from the date of issuance of entitlement certificate if it makes a difference of only two months. According to the learned counsel, the application for issuance of entitlement certificate was filed by the petitioner before the Deputy Excise and Taxation Commissioner, Jhajjar, on 27.11.2003 and he was required to pass order within a period of 30 days, which has not been done so far. However, Mr. Goyal has no objection if the order of the Tribunal is read to mean 'entitlement certificate' instead of 'eligibility certificate' as long as it would not make difference of more than two months.

In view of above, we dispose of the petition with a direction that the order of the Tribunal shall be read that instead of the concession of deferment of payment of tax with effect from the date of issue of eligibility certificate, it should be from the date of issue of entitlement certificate, which has to be issued with a difference of not more than two months. Accordingly, the directions

are issued to the Deputy Excise and Taxation Commissioner to issue entitlement certificate with retrospective date by endorsing it in accordance with the rule within a period of 30 days from the date of filing the application.

The writ petition stands disposed of in the above terms.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

July 20, 2007
Pkapoor